

Supporting

Documents

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48

STATE OF CALIFORNIA

RULES VIOLATION REPORT

T.A.B.E. Score is 9.4

CDC NUMBER K-93463	INMATE'S NAME BROWN	RELEASE/BOARD DATE 	INST CTF-NOR	HOUSING WB-312U	LOG NO. VI-07-07-035
VIOLATED RULE NUMBER CCR §3005(b)	SPECIFIC ACTS Obstructing A Peace Officer In The Performance and Duty	LOCATION Whitney B-Side	DATE 7/26/2007	TIME 0920 hours	

CIRCUMSTANCES

On 7/26/2007, at approximately 0920 hours, while I was assigned as a Whitney Hall B-Side Officer, I approached cell WB312 to ask Inmate BROWN, K93463, WB312U, why he failed to report to SAP. Inmate BROWN informed me that he had litigations against the program and could not attend. I advised Inmate BROWN that when we release for yard that he would be restricted to his cell for failing to report to his job assignment. Inmate BROWN told me he had to go to the Law Library. I informed Inmate BROWN that if he failed to report to his job assignment he would have to stay in his cell during his assigned job hours. At approximately 0920 hours, while conducting yard release for Whitney B-Side, I approached cell WB312 to release Inmate BROWN'S cellmate, Inmate YOUNG, F75866, for yard. When Inmate YOUNG stepped out of the cell, Inmate BROWN quickly followed. I put my left hand out and said, "Stop." Inmate BROWN yelled, "Don't touch me." I replied, "I didn't." I then told Inmate BROWN to step back into his cell to lock up. Inmate BROWN walked down the tier, acting in an irate manner. Inmate BROWN started yelling that he wanted to speak to the Sergeant. I ordered Inmate BROWN back to his cell to lock up. Inmate BROWN spotted Correctional Sergeant Bernal standing on the first tier and said he had to speak with him. Sergeant Bernal told Inmate BROWN to lock up and he would be up to speak with him at the conclusion of yard release. Inmate BROWN then yelled, "You might as well hit your button. I'm not locking up!" Inmate BROWN then walked towards me, dropped the items in his hands, and pushed them under his door. I ordered Inmate BROWN to place his hands on the wall and then placed him in mechanical restraints (handcuffs). Inmate BROWN continued to act in an irate manner and stated that my name would be in his lawsuit. I escorted Inmate BROWN to the sallyport. All movement on the B-Yard was stopped and yard release was postponed. Inmate BROWN was escorted to the North Patio by B-Yard Staff.

Inmate BROWN is aware of this CDC-115 RVR and the specific charge. Inmate BROWN is NOT a mental health patient / participant at any level of care.

REPORTING EMPLOYEE (Typed Name and Signature)	DATE	ASSIGNMENT Whitney Hall B-Side, 2/W	RDO'S S/S
► C. M. Gonzales, Correctional Officer			
REVIEWING SUPERVISOR'S SIGNATURE	DATE	□ INMATE SEGREGATED PENDING HEARING	
► A. Bernal, Correctional Sergeant		DATE	LOC. _____
CLASSIFIED □ ADMINISTRATIVE ☒ SERIOUS	OFFENSE DIVISION: "P" 61-90	DATE	CLASSIFIED BY (Typed Name and Signature) ► D. N. McCall, Correctional Lieutenant
			HEARING RFFRRFD TO □ HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC

COPIES GIVEN TO INMATE BEFORE HEARING

► CDC 115	BY: (STAFF'S SIGNATURE) ►	DATE	TIME	TITLE OF SUPPLEMENT		
□ INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE) ►	DATE	TIME	BY: (STAFF'S SIGNATURE) ►	DATE	TIME

HEARING:

ACTION BY: (TYPED NAME)	SIGNATURE ►	DATE	TIME
REVIEWED BY: (TYPED NAME)	CHIEF DISCIPLINARY OFFICER'S SIGNATURE ►	DATE	TIME
□ COPY OF CDC 115 GIVEN TO INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) ► 49	DATE	TIME

STATE OF CALIFORNIA

SÉRIOS RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CDC NUMBER K-93463	INMATE'S NAME BROWN	VIOLATED RULE NO(S). CCR§ 3005(b)	DATE 7/26/2007	INSTITUTION CTF-NORTH	LOG NO. VI-07-07-035
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO**POSTPONEMENT OF DISCIPLINARY HEARING**

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution	INMATE'S SIGNATURE ►	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution	INMATE'S SIGNATURE ►	DATE

DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION	
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<input type="checkbox"/> I REVOKE my request for postponement	INMATE'S SIGNATURE ►	DATE
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STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED	<input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ►	DATE
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<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF	
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<input type="checkbox"/> NOT ASSIGNED	REASON		
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INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED	<input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ►	DATE
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<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF	
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<input type="checkbox"/> NOT ASSIGNED	REASON		
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EVIDENCE / INFORMATION REQUESTED BY INMATE:

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

 REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charges, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<i>50</i>	INVESTIGATOR'S SIGNATURE ►	DATE	
<input type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ►	TIME	DATE

----- If additional space is required use supplemental pages -----

STATE OF CALIFORNIA

RULES VIOLATION REPORT - PART C

DEPARTMENT OF CORRECTIONAL & REHABILITATION

PAGE 024 06 2

CDC NUMBER K-93463	INMATE'S NAME BROWN	LOG NUMBER VI-07-07-035	INSTITUTION CTF-NORTH	TODAY'S DATE 08/24/07
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

HEARING: Inmate BROWN appeared before the Senior Hearing Officer on 08/24/07, at 0730 hours. The purpose for the hearing was explained. Inmate BROWN acknowledges receiving all copies of relevant documents more than 24 hours prior to this hearing.

INMATE'S HEALTH: Inmate BROWN stated that his health is good.

MHDS: Inmate BROWN is not a mental health patient / participant at any level of care, and did not exhibit behavior that was bizarre, unusual, or uncharacteristic at the time of the events documented in this Rules Violation Report. A referral to the Health Care Services Department for Mental Health Assessment was not made.

Date of discovery: 07/26/07

Initial RVR copy issued on: 08/07/07

Hearing started on: 08/24/07

Last document issued to inmate on: 08/07/07

DA postponed date: NONE

DA results issued date: NONE

TIME CONSTRAINTS: Time Constraints were met.

STAFF ASSISTANT (SA): A Staff Assistant was not assigned, as the criteria per CCR§ 3315(d)(2) were not met.

T.A.B.E.: Inmate BROWN'S "T.A.B.E." Reading Score is 9.4. Inmate BROWN is fluent in English and read the charges to the Senior Hearing Officer and explained his understanding of the charges / process / options / instructions to the Senior Hearing Officer's (SHO) satisfaction.

INVESTIGATIVE EMPLOYEE (IE): An Investigative Employee was assigned. Correctional Officer E. L. HOWARD was assigned as the Investigative Employee, as the criteria per CCR§ 3315(d)(1) were met.

DA REFERRAL: NO

ADDITIONAL EVIDENCE REQUESTED OR USED: NONE

VIDEO TAPE EVIDENCE: NO

INMATE STATEMENT: Inmate BROWN pled NOT GUILTY and presented me (SHO) with a written declaration proclaiming his innocence. The declaration stated, "On 7/26/07 I did not obstruct staff from their duties, it was more or less abuse of authority by staff. However, staff deliberately tried to force me back into my cell for not going to work. I told the officer that I'm not going to accept a punishment measure without documentation. I had not received a CDCR-115 from SAP to be forced to stay in my cell without a documentation hearing, and Due Process. Where is staff's documentation to confine me to quarters without a CDCR RVR-115 decision? I tried to talk with the Sergeant about the issue, and he deliberately refused to deal with the issue or matter. The CDCR-115 more or less should have been written as, "Refusing To Obey A Direct Order", instead of, "Obstructing A Peace Officer In The Performance And Duty". Furthermore, Obstructing A Peace Officer In The Performance And Duty does not meet the criteria for a serious rule violation. CCR-3315 sets the standards for Serious Rule Violations: This 115 RVR does not even come close to mandatory state procedures and policy. Inmate BROWN made no statement at this hearing.

WITNESSES REQUESTED OR PROVIDED: Inmate BROWN did not request the presence of any witnesses.

WITNESS TESTIMONY AT HEARING: NONE

CONFIDENTIAL INFORMATION: NO

FINDINGS: This finding is based on 1) the information provided in the Rules Violation Report, in which the Reporting Employee, Correctional Officer, C. M. GONZALES documents that after ordering Inmate BROWN back into his cell, Inmate BROWN would not comply. 2) Inmate BROWN began walking down the tier refusing to return to his cell and locking up, basically causing him (Correctional Officer C. M. Gonzales) to stop the yard release to place Inmate BROWN in mechanical restraints (handcuffs) so he could be escorted to the North Facility Patio, which prevented staff from performing their normal duties.

ADDITIONAL DISPOSITION: NONE

ENEMY CONCERNS: NO

APPEAL RIGHTS: Inmate BROWN was advised he will receive a completed copy of the CDCR-115 RVR upon final audit by the Chief Disciplinary Officer. Inmate BROWN was also advised of his right to appeal, the methods of appealing, and credit restoration procedures.

SIGNATURE OF WRITER: E. Stephens, Correctional Lieutenant (SHO)		DATE SIGNED:
<input type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature) <i>E. Stephens</i>	DATE SIGNED: <i>1/26/07</i>
		TIME SIGNED: <i>1:30</i>

STATE OF CALIFORNIA

RULES VIOLATION REPORT - PART C

Page 2 of 3

CDC NUMBER K-93463	INMATE'S NAME BROWN	LOG NUMBER VI-07-07-035	INSTITUTION CTF-NORTH	TODAY'S DATE 8/13/2007
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input type="checkbox"/> HEARING <input checked="" type="checkbox"/> IE REPORT			<input type="checkbox"/> OTHER

REPORTING EMPLOYEE'S STATEMENT: Correctional Officer C. M. Gonzales, Whitney Hall B-Side, 2/W Watch, S/S RDO's

On 8/14/2007, at approximately 1300 hours, the Investigative Employee, Correctional Officer E. L. Howard interviewed Correctional Officer C. M. Gonzales in regards to Rules Violation Report Log #VI-07-07-035. Correctional Officer C. M. Gonzales made the following statement concerning the question posed to him by Inmate BROWN: "Inmate BROWN was written up for obstructing my performance and duty as a peace officer, not for failing to report to his job assignment. Inmate BROWN could refer to the Title 15, 3005(b), Conduct.

The Reporting Employee had no further statement concerning this matter at this time.

STAFF WITNESS REQUESTED: NO

INMATE WITNESS REQUESTED: NO

REPORTING EMPLOYEE REQUESTED: NO

INVESTIGATIVE EMPLOYEE REQUESTED: NO

ADDITIONAL INFORMATION NOT CONTAINED IN CONFIDENTIAL REPORTS: NO

STAFF WITNESSES REQUESTED AT THE HEARING:INMATE WITNESSES REQUESTED AT THE HEARING:

N/A

N/A

= THIS CONCLUDES THE INVESTIGATIVE EMPLOYEE REPORT =

SIGNATURE OF WRITER		DATE SIGNED	
E. L. Howard, C/O, I.E., U/6		8/17/07	
<input checked="" type="checkbox"/> <i>E. L. Howard</i>	GIVEN BY: (Staff's Signature) <i>E. L. Howard</i>	DATE SIGNED: 8/17/07	TIME SIGNED: 12:10

RULES VIOLATION REPORT

T.A.B.E. Score is 9.4

CDC NUMBER K-93463	INMATE'S NAME BROWN	RELEASE/BOARD DATE 7/26/07 CFB	INST CTF-NOR	HOUSING WB-312U	LOG NO. VI-07-07-035
VIOLATED RULE NO(S). CCR §3005(b)		SPECIFIC ACTS Obstructing A Peace Officer In The Performance and Duty	LOCATION Whitney B-Side	DATE 7/26/2007	TIME 0920 hours

CIRCUMSTANCES

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Inmate BROWN is aware of this CDC-115 RVR and the specific charge. Inmate BROWN is NOT a mental health patient / participant at any level of care.

REPORTING FMPI CYFF (Typed Name and Signature) ► C. M. Gonzales, Correctional Officer	DATE 08-07-07	ASSIGNMENT Whitney Hall B-Side, 2/W	RDO'S S/S
REVIEWING SUPERVISOR'S SIGNATURE ► A. Bernal, Correctional Sergeant	DATE 7/26/07	□ INMATE SEGREGATED PENDING HEARING DATE 7/17 LOC. 115	
CLASSIFIED ADMINISTRATIVE SERIOUS	OFFNSIVE DIVISION: "D" 61-90	DATE 7-27-07	CLASSIFIED BY (Typed Name and Signature) ► D. N. McCall, Correctional Lieutenant
HFARTING RFFRRFD TO □ HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC			

COPIES GIVEN TO INMATE BEFORE HEARING

BY: (STAFF'S SIGNATURE) ► M/S	DATE 8-7-07	TIME 10:00 AM	TITLE OF SUPPLEMENT ► M/S
BY: (STAFF'S SIGNATURE) ► M/S	DATE	TIME	BY: (STAFF'S SIGNATURE) ► M/S

HEARING:

PLEA: Inmate BROWN pled NOT GUILTY.

FINDINGS: Inmate BROWN has been found GUILTY of being in violation of CCR§ 3005(b), specifically Obstructing A Peace Officer In The Performance and Duty.

DISPOSITION: Inmate BROWN is assessed 61 Days Forfeiture of Credit, which is consistent with a Division "D" Offense, CCR §3323(f)(6); Counseled and Reprimanded.

DISPOSITION CONTINUED ON CDC-115C

REFERRED TO <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> BPT / NAEA	SIGNATURE	DATE	TIME
ACTION BY: (TYPED NAME) ► E. Stephens, Correctional Lieutenant (SHO)			
REVIEWED BY: (TYPED NAME) ► J. Sareli, Facility Captain	DATE	CHIEF DISCIPLINARY OFFICER'S SIGNATURE ► G.A. Ortiz, Associate Warden, CDO	
□ COPY OF CDC 115 GIVEN TO INMATE AFTER HEARING 53		DATE 11/16/07 TIME 11:00	
CDC115 (7/88)		115 TB: _____ 115 HB: _____	

9-26-07